

MCHENRY COUNTY BOARD
MINUTES OF THE REGULAR SESSION MEETING
DECEMBER 18, 2007

Chairman of the Board – Kenneth D. Koehler (District 2)

District 1 Yvonne M. Barnes Marc Munaretto Anna May Miller Dan Shea	District 2 Marie M. Chmiel James Heisler Kenneth Koehler Lyn Orphal	District 3 Ed Dvorak Mary L Donner Nick Provenzano Barbara Wheeler
District 4 Sue Draffkorn John Hammerand Pete Merkel Sandra Fay Salgado	District 5 John Jung Jr. James P Kennedy Virginia Peschke Tina Hill	District 6 Randall Donley Mary T McCann Daniel P Ryan Mary Lou Zierer

The Honorable County Board of McHenry County, Illinois met in Regular Session on Tuesday, December 18, 2007.

Chairman Koehler called the meeting to order at 7:00 p.m. The Pledge of Allegiance to the Flag was led by County Clerk Katherine C Schultz with Members of the Board, department heads and visitors participating. Chairman Koehler gave the invocation/personal remarks.

ROLL CALL

The roll was called by County Clerk Katherine C Schultz. The following members responded: Zierer, Barnes, Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler and Koehler. Absent: Miller. Chairman Koehler declared a quorum present with twenty-three (23) members responding.

MINUTES

Mr. Dvorak made a motion seconded by Mr. Heisler to approve County Board minutes from December 4th, 2007. Chairman Koehler asked if there were any corrections, there were none. Chairman Koehler asked for a voice vote, the ayes having it, the motion to approve the minutes has passed.

CHAIRMAN'S REMARKS

Chairman Koehler announced that Cassandra McKinney, Water Resource Manager, delivered a healthy baby boy yesterday, 8 lbs 9 oz and 21 inches long. Also, the Chairman said there will be a swearing in ceremony for Associate Judge James Cowlin on Friday at 11 a.m. in Courtroom 204 in the Government Center; he thought it would be nice if Board members could attend.

SPECIAL RECOGNITION/REPORTS

Mr. Donley made a motion seconded by Mr. Shea to approve the following Eagle Scout recognitions:

Kevin Nash	Troop 166	Fox River Grove
Andrew Bentz	Troop 131	McHenry
Adam Pringle	Troop 131	McHenry
Jonathan Miles Freeman	Troop 163	Marengo

Chairman Koehler asked for a voice vote, the ayes having it, Chairman Koehler declared the motion passed.

Chairman Koehler and Mr. Donley came forward and congratulated Jonathan Miles Freeman who was in attendance at the meeting this evening. Jonathan was presented with a certificate of recognition and given a miniature version of the McHenry County flag and he told the board the project he did to earn his Eagle Scout badge.

SPECIAL PRESENTATIONS

None

ZBA CONSENT AGENDA

Chairman Koehler asked if anyone wished to remove a petition from the agenda. Ms. Peschke asked to remove Petition #07-65.

Ms. Wheeler made a motion seconded by Ms. Donner to approve the following Petitions:

- Exb. #07-43; Algonquin Twp; Eric/Sabrina Seubert; reclass R1V to R1V (new var.)
- Exb. #07-55; Hartland Twp; Alliance Holdings Ltd.; reclass I1 to I2
- Exb. #07-76; Marengo Twp; Olbrich Trust; reclass A1 to A2
- Exb. #07-77; Marengo Twp; Olbrich Trust; reclass A1 to A2
- Exb. #07-82; Dorr Twp; Kolze Property Prtnsp; reclass A1 to A1C
- Exb. #07-87; McHenry Twp; 805 North River Rd LLC; reclass A1 to B1
- Exb. #07-90; Coral Twp; Twin Creek Estates LLC; reclass A1 to E1
- Exb. #07-95; Hebron Twp; John/Bernice Warner; reclass A1 to A1V

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Barnes, Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler and Koehler. Absent: Miller. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

Ms. Wheeler made a motion seconded by Ms. Donner to approve the following Petition:

- Exb. #07-65; Coral Twp; Citizens 1st Natl Bk Tr 1031/Moritz Builders Corp; reclass of A1 to E3.

Chairman Koehler asked for any discussion. Ms. Peschke commented that in reading the transcript on this Petition she noticed that staff recommended denial of this petition and there was expert advice of the NRCS who also recommended denial of this. Also she said there were comments made by Mr. Parker, who is very familiar with the property, who believes that this should be denied because there is no need for development in that area at this time and it's not compatible with the land use and zoning around it, but feels that the County Board will just overturn their recommendation. Ms. Peschke said she is opposed to this Petition.

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Chmiel, Donley, Donner, Dvorak, Hammerand, Hill, Merkel, Munaretto, Orphal, Provenzano, Ryan, Shea, Wheeler and Koehler. Nay: Barnes, Draffkorn, Heisler, Jung, Kennedy, McCann, Peschke and Salgado. Absent: Miller. The vote being fifteen (15) ayes and eight (8) nays noting one (1) absent, Chairman Koehler declared the motion to approve has passed.

ZBA REGULAR AGENDA

Chairman Koehler asked if anyone wished to remove a petition from the regular agenda, there were none.

Ms. Wheeler made a **motion** seconded by Ms. Donner **to DENY** the following Petition as recommended by the ZBA:

- Exb. #07-59; Hartland Twp; Ogurek Trust; reclass A1 to E5

Ms. Zierer made a **motion to amend** seconded by Mr. Shea **to change the denial into approval of Petition #07-59.**

Chairman Koehler asked for any discussion. Ms. Zierer noted that although she doesn't like to go against ZBA recommendations, she drove by the property and read the transcript and she feels that this would be an appropriate change in zoning for this property. If you look at the map on the other side of the road there are 10 acre parcels and there was only one objector on an 8 acre parcel. Ms. Peschke said she understands the confusion and she is familiar with the area and there are a lot of 5 and 10 acre parcels, but the whole area is very farm oriented and is not a residential area. Ms. McCann agreed with Ms. Peschke.

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Chmiel, Donley, Dvorak, Hammerand, Heisler, Hill, Merkel, Munaretto, Provenzano, Ryan, Shea and Koehler. Nay: Barnes, Donner, Draffkorn, Jung, Kennedy, McCann, Orphal, Peschke, Salgado and Wheeler. Absent: Miller. The vote being thirteen (13) ayes and ten (10) nays noting one (1) absent, Chairman Koehler declared the **motion to amend to change the denial into approval of Petition #07-59 has passed.**

Chairman Koehler asked for any discussion on the main motion. Noting none, he asked for a roll call vote on the **main motion as amended to approve Petition #07-59:** Zierer, Chmiel, Donley, Dvorak, Hammerand, Heisler, Hill, Merkel, Munaretto, Provenzano, Ryan, Shea and Koehler. Nay: Barnes, Donner, Draffkorn, Jung, Kennedy, McCann, Orphal, Peschke, Salgado and Wheeler. Absent: Miller. The vote being thirteen (13) ayes and ten (10) nays noting one (1) absent, Chairman Koehler declared **reclassification of Petition #07-59 has been approved.**

Ms. Wheeler made a **motion** seconded by Ms. Donner **to DENY** the following Petition as recommended by the McHenry County Hearing Officer. This will require a $\frac{3}{4}$ vote.
Exb. #07-71; McHenry Twp; Thomas/Lois Mathews; reclass I1 to I1V

Ms. Hill made a **motion to amend** seconded by Ms. Draffkorn **to change the denial into approval of Petition #07-71.**

Chairman Koehler asked for any discussion on the motion to amend. Ms. Hill said she felt that the zoning board did not look at the surrounding areas and how it would clean up the area and that most of them are zero lot lines around it. Ms. Draffkorn said she lives in the area and agrees with approval. Mr. Hammerand said for a number of years there have been a lot of vehicles and things parked out there and maybe this pole barn will help them house some of this equipment.

Chairman Koehler asked for a roll call vote on the motion to amend and noted that on this motion to amend we do not need the $\frac{3}{4}$ vote. The following members responded aye: Zierer, Barnes, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea and Koehler. Nay: Chmiel, Donley, Donner and Wheeler. Absent: Miller. The vote being nineteen (19) ayes and four (4) nays noting one (1) absent, Chairman Koehler declared the **motion to amend to approve Petition #07-71 has passed.**

Chairman Koehler asked for any discussion on the main motion as amended voting on approving the variance requested, and he noted that a $\frac{3}{4}$ vote (18) will be needed to approve this petition request. Ms. Donner said she is concerned about how we treat our officer with this variation. There are certain things that have to be taken care of when you are working with a variation and 75 feet down to 10 feet even if it is going to clean up an area, is flying in the face of what the variation is supposed to be as far as zoning is concerned.

Chairman Koehler asked for a roll call vote on the main motion that has been amended to approve Petition #07-71. A yes vote will be to approve and a $\frac{3}{4}$ vote is needed to do so. The following members responded aye: Zierer, Barnes, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, McCann, Merkel, Peschke, Provenzano, Ryan, Salgado, Shea and Koehler. Nay: Chmiel, Donley, Donner, Kennedy, Munaretto, Orphal and Wheeler. Absent: Miller. The vote being sixteen (16) ayes and seven (7) nays noting one (1) absent, Chairman Koehler declared the **motion to approve Petition #07- 71 has failed due to lack of $\frac{3}{4}$ vote.**

PLATS

Ms. Wheeler made a motion seconded by Mr. Ryan to approve the following Final Plat noting that the plat is in the room for viewing:

Final Plat – Manor Hill Subdivision, Unit 2, Riley Township

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Barnes, Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler and Koehler. Absent: Miller. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

PUBLIC COMMENT

None

NEW AND UNFINISHED BUSINESS

None

APPOINTMENTS

Mr. Jung made a motion seconded by Mr. Shea approve the following appointments:

Local Emergency Planning Committee

Nick Provenzano term to expire 12/01/2008

Board of Building Code Appeals

Russ Shafer term to expire 08/01/2008

John Swierk term to expire 08/01/2012

Rich Tobiasz term to expire 08/01/2012

Ms. Hill noted that the Appointments were not on the web for viewing.

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Barnes, Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler and Koehler. Absent: Miller. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

STANDING COMMITTEE CHAIRMAN UPDATES

Mr. Hammerand noted that there was a press release from the Sheriff's office regarding a liquor enforcement operation. He said unfortunately we had six (6) establishments that sold to underage people, they were: Mobile Speed Mart, Suds R Us, Keefe's Reef, Joey B's, The Breakers and Sentimental Journey. More importantly he said we had eleven (11) establishments that refused to sell and they were: Shell Food Mart, Crystal Lake Citgo, Roz's Food Shop, Rod's Rite Inn, Orlando's Cove, Jimmy O's Porten Road Pub, Crystal Bowl, Citgo on Rt. 14 in Crystal Lake, Town Liquor, Oberheid Soft Landing in Cary and Tony V's. He will be sending out

congratulation letters to those that are in his district that and inside the unincorporated area. Those that were found to be selling to minors, he thinks that we should look at our fines and what municipalities are charging (\$1,000 fine) and perhaps have the Committee consider this type of fine.

Ms. Draffkorn spoke on Animal Control saying that staff is working hard to stay within budget. The walls in the Crystal Lake facility are up and painted and it looks like we will hit our target of being on time.

Ms. Zierer said if anyone has an opportunity she asked that they please stop out at Valley Hi and visit some of the residents. They love to have company at the holidays.

Ms. Hill commented that the sound system parts are in and they should start working on the new system in January. Secondly, regarding the Transit Implementation Committee, she said she is going to prepare a general written overview of what this Committee has been doing and a detailed report will be given to the Senior Service Grant Commission. If new board members don't know what this committee does, she asked them to contact her.

ROUTINE CONSENT AGENDA

Chairman Koehler asked if anyone wished to remove an item from the routine consent agenda. Mr. Munaretto asked to remove 15.2 I (4) and (5).

Mr. Heisler made a motion seconded by Ms. Peschke to approve the Routine Consent Agenda with two items removed.

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Barnes, Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler and Koehler. Absent: Miller. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

15.2 I (4) Resolution to approve an appropriation for parcel title searches

Mr. Shea made a motion seconded by Ms. Orphal to approve the above-named resolution,

Chairman Koehler asked for any discussion on 15.2 I (4). Mr. Munaretto said he wasn't sure what we are trying to do here. We're appropriating funds for parcel title searches but are not identifying any specific parcels nor are we identify the company that we are paying this to. He wondered if this was a reimbursement. Mr. Young of the DOT responded that for title searches we usually use Weiland Title Services but do not have a contract with them, and as we receive bills we pay them.

Mr. Young said depending on what is going on with a property in a project the title search could get quite involved so the prices can vary. Mr. Munaretto responded that appropriating an amount for an entire year rather than smaller segments such as quarterly seems peculiar to him. Mr. Young said sometimes things have to be done immediate and this puts the funds available right away. The last resolution like this was from 2005 and the funds lasted two years. Mr. Munaretto said typically the County has a contract with a vendor for a not to exceed amount and then the vendor submits bills until the amount of the contract was used up. He is just calling into question why we are doing a blanket \$50,000 appropriation without a contract. Mr. Young said if a surveyor or appraiser starts using a different title search company they can set up another P.O. if they need to and the appropriation is still there, because it is not necessarily going to always be the same title company.

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Barnes, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler and Koehler. Nay: Chmiel. Absent: Miller. The vote being twenty-two (22) ayes and one (1) nay, noting one (1) absent, Chairman Koehler declared the motion to approve 15.2 I (4) is passed.

15.2 I (5) *Resolution approving an engineering services agreement amendment and appropriating funds.*

Mr. Shea made a motion seconded by Ms. Peschke to approve the above-named resolution.

Chairman Koehler asked for any discussion on 15.2 I(5). Mr. Munaretto verified that this is an ongoing contract that started back in 2000 and we are adding an additional scope of work in the amount of \$175,289.75. Mr. Shea said yes.

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Barnes, Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler and Koehler. Absent: Miller. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion to approve 15.2 I (5) is passed.

Point of Order - At this point in the meeting Ms. Peschke called a Point of Order regarding the voting on Petition #07-71 and the $\frac{3}{4}$ vote issue. She said she would like a parliamentary clarification on the vote on this petition. It mentions that the Hearing Officer recommendation for denial forces a $\frac{3}{4}$ vote. She asked if that meant to approve the denial only is a $\frac{3}{4}$ vote or does it mean to over turn the Hearing Officer requires a $\frac{3}{4}$ vote, she isn't clear on this. Chairman Koehler said it is his understanding that it was to over turn the vote of the Hearing Officer. The amendment passed to change the recommended denial to recommend approval; then the vote to approve the Petition request was denied (which is what the Hearing Officer recommended) because it did not receive a $\frac{3}{4}$ vote (18 yes votes), it only got 16 yes votes. Ms. Peschke asked because the Board over turned what the Hearing Officer was recommending, she didn't think the final vote required a $\frac{3}{4}$ vote. Mr. Stone responded that statute says that in order to over turn the ruling of the Hearing Officer you need a $\frac{3}{4}$ vote. So when the Board amended it to an approval you were over ruling the Hearing Officer's decision and it didn't pass because it needed a $\frac{3}{4}$ vote. The Board affirmed the Hearing Officer's decision even though it is not in a denial format. If the Board had just put this up as a denial and passed it, you needed only a majority vote, but somebody amended the motion so the Board was attempting to over turn the Hearing Officer and needed a $\frac{3}{4}$ vote and the vote is consistent with his recommendation. Ms. Wheeler tried to explain by saying that the intention is for the denial to get the $\frac{3}{4}$ vote (the recommendation of the Hearing Officer). Chairman Koehler said this is very confusing and we will need to get the correct wording. Ms. Peschke asked for a State's Attorney's opinion to know for sure that when you deny a person's variance that you do not need $\frac{3}{4}$. Chairman Koehler said you don't always need it, but in this case you did because it was the Hearing Officer's recommendation. Ms. Peschke said we should avoid changing the recommendation as it gets too confusing. Chairman Koehler asked Mr. Stone to look into this and give an opinion. Chairman Koehler said board members will receive a copy of the opinion that is given.

ORDINANCES

For Review: *Ordinance amending Ordinance No. O-200305-10-031 as it pertains to Section R113.4*

Ms. Wheeler said this is a matter of housekeeping in some of the language and it is up for 30-day review

Ms. Wheeler made a motion seconded by Ms. Peschke to approve the following Ordinances:
16.2A *Ordinance establishing a fee schedule for McHenry County Subdivision Review*
16.2B *Ordinance establishing a schedule of fees to cover the costs of inspection and licensing of motels.*
16.2C *Ordinance amending the fee schedule for petitions before the McHenry County Zoning Board of Appeals*
16.2D *Ordinance amending the schedule of fees to cover costs of providing building permits, inspections and code books.*

Chairman Koehler asked for any discussion. Mr. Kennedy asked why the fees had to go up. Ms. Wheeler responded that they are going up to cover costs.

Chairman Koehler asked for a voice vote, the ayes having it, the motion to approve the above-named four (4) Ordinances has passed.

ADMINISTRATOR'S REPORT

Mr. Austin told the Board that the Senate in Washington today took up the Consolidated Omnibus Budget and we are optimistic and should hear something tomorrow what federal requests we will get. The staff Strategic Planning Committee meeting is tomorrow from 9 until about 12 noon as we prepare for the January annual meeting on January 31st. Finally, Mr. Austin said he believed that everyone is scheduled for one of their four meetings with the campus planners, tomorrow at 8 and 10 and Thursday at 8 and 10. He appreciates everyone's participation in that. Chairman Koehler said the question came up whether we have to have a board meeting on January 3rd. There were a couple presentations on the agenda and Mr. Austin said Transportation had a couple of issues that need to be worked through, so it might possibly be cancelled. Everyone will be notified if it is cancelled.

EXECUTIVE SESSION

None

MEMBERS' COMMENTS

Mr. Heisler wished everyone a Merry Christmas and told a short story of his last year, noting the difficult time of losing his wife and with the support of his County Board family he was able to get through it. At the end of March he realized a goal with his two children and went hiking and camping in Peru, it was a spiritual as well as physical journey. On April 3rd he was in the ruins of Machu Picchu and the three of them let his wife's ashes go to the wind. Not too long after that he met a woman and to put rumors to rest, he got engaged two days ago. Board members congratulated Mr. Heisler on his recent engagement.

Ms. Orphal thanked all of the female board members who helped put together the Christmas dinner this evening as everyone seemed to enjoy themselves and the food.

Mr. Kennedy mentioned that Wednesday and Thursday Valley Hi is having their annual Christmas party. If anyone has time to stop he is sure the residents would enjoy that.

Mr. Hammerand said he was sorry he missed the Christmas dinner this evening as it his wife's birthday. He wished everyone a Merry Christmas and a Happy New Year.

Ms. Hill as well wished everyone a Merry Christmas and a Happy New Year. She added that this weekend her 2nd child graduated from college and she feels like the family got a raise! Also, she asked everyone to wish Ms. Wheeler a happy birthday, which is on December 23rd.

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ADJOURNMENT

Mr. Heisler made a motion seconded by Ms. Donner to adjourn at 8:06 p.m. Chairman Koehler declared the motion passed on a unanimous voice vote.

Dated and approved at Woodstock, Illinois this 15th day of January, A.D., 2008.

s/ Kenneth D Koehler
Kenneth D. Koehler, Chairman

ATTEST:

s/ Katherine C Schultz
Katherine C. Schultz, County Clerk